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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW STREAM COMMERCIAL FINANCE,
LLC,

Plaintiff,

-against-

STAR OF AMERICA, O.N. 973452,
her engines, tackle, gear and appurtenances, etc.,
in rem; MAJESTIC STAR, O.N. 1100715, her
engines, tackle, gear and appurtenances, etc.,
in rem; Majestic Voyages, Inc., *in personam*;
and Majestic Star, Inc., *in personam*,

Defendants

Civ. No. 08 CV 3171 (AKH)
(In Admiralty)

JUNE 6, 2008

PLAINTIFF NEW STREAM COMMERCIAL FINANCE, LLC'S UNOPPOSED
MOTION TO CONFIRM INTERLOCUTORY SALE OF IN REM DEFENDANTS
STAR OF AMERICA, O.N. 973452, AND MAJESTIC STAR, O.N. 1100715

Plaintiff NEW STREAM COMMERCIAL FINANCE, LLC (“New Stream”), by and through its attorneys Wiggin & Dana LLP, petitions this Honorable Court for an Order confirming the interlocutory sale of *In Rem* Defendants STAR OF AMERICA, O.N. 973452, and MAJESTIC STAR, O.N. 1100715, their engines, tackle, apparel, furniture, equipment, and all other necessities thereunto appertaining and belonging to defendants, to plaintiff, New Stream, and respectfully states as follows:

1. This Motion is brought pursuant to Federal Rules of Civil Procedure,

Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions E(9).

2. On May 22, 2008, this Court entered an order allowing for the interlocutory sale of the Vessels by the U.S. Marshal for the Southern District of New York at a public auction to be held on the 9th day following entry of this order (the “May 22 Order”). Since the 9th day following the entry of the order was a Saturday, the auction was scheduled for the following Monday, June 2, 2008, at 1 p.m.

3. Pursuant to the May 22 Order and Local Admiralty Rule C.2(b), New Stream caused notice of the interlocutory sale of the Vessels to be published in the New York Times and Newark Star Ledger for six consecutive days from May 27, 2008 up to and including June 1, 2008 (collectively, the “Notice”). *See* Affidavits of Maria Malone and Cathy Zike, attached as Exhibits A and B, respectively, to the Affidavit submitted by Steven B. Malech in support of this motion.

4. Defendants, as well as the other two appearing parties, the United States Small Business Administration and Biltone, Inc. had no objection to the interlocutory sale and have no objection to the Court’s prompt confirmation of the sale.

5. In accordance with the terms of the May 22 Order and the Notice, the sale of the Vessels was duly and regularly conducted by Supervisory Deputy United States Marshal Angelo D’Addario in the lobby of the United States Courthouse, 500 Pearl Street, New York, New York, at 1 p.m. on Monday, June 2, 2008.

6. Wigin and Dana attorney Steven B. Malech attended the sale. Although several parties were present, including representatives of the United States Small Business Administration, plaintiff New Stream submitted the only bids, a credit bid in the amount of \$1.6 million for Star of America and a credit bid in the amount of \$1.9 million for the Majestic Star. No deposit or payment

was necessary because the principal amount due and owing to plaintiff totals \$5,213,447.98.

7. New Stream is a citizen of the United States.

8. Wherefore the plaintiff, New Stream, moves for an Order Confirming the Sale by the Deputy Supervisory United States Marshal for the Southern District of New York of defendant Vessels, their engines, tackle, apparel, furniture, equipment, and all other necessities thereunto appertaining and belonging to the defendant for a credit bid of \$3.5 million to plaintiff New Stream, free and clear of all liens and encumbrances.

DATED: New York, New York, June 6, 2008

WIGGIN & DANA LLP

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